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APPOINTMENT OF HERBERT WARREN HARDMAN AS CAPTAIN IN
THE QUARTERMASTER CORPS, UNITED STATES ARMY

HEARING

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON MILITARY AFFAIRS
HOUSE OF REPRESENTATIVES

SIXTY-SEVENTH CONGRESS
FIRST SESSION

MAY 23, 1921

WITNESSES

HON. HERBERT J. DRANE
HERBERT WARREN HARDMAN
Warrant Officer, U. S. A.

SUBCOMMITTEE

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APPOINTMENT OF HERBERT WARREN HARDMAN, AS CAPTAIN,
QUARTERMASTER CORPS, UNITED STATES ARMY.

SUBCOMMITTEE OF THE
COMMITTEE ON MILITARY AFFAIRS,
HOUSE OF REPRESENTATIVES,
Monday, May 23, 1921.

The subcommittee met at 10 o'clock a. m., Hon. Charles C. Kearns (chairman) presiding.

Mr. KEARNS. The subcommittee has met this morning to hear Mr. Drane and also Maj. Hardman in reference to H. R. 6130, a bill providing for the appointment of Warrant Officer Herbert Warren Hardman as captain in the Quartermaster Corps, United States Army, which reads as follows:

A BILL Providing for the appointment of Warrant Officer Herbert Warren Hardman as captain in the Quartermaster Corps, United States Army.

Whereas Warrant Officer Herbert Warren Hardman took an examination for permanent commission in the Regular Army of the United States and failed to pass on account of an admitted mistake on the part of examining officers in the War Department: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to appoint said officer (who was formerly major, Quartermaster Corps), a captain in the Quartermaster Corps, United States Army, to take rank under the provisions of section 24a of the act of Congress approved June 4, 1920.

STATEMENT OF HON. HERBERT J. DRANE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA.

Mr. DRANE. Mr. Chairman, Maj. Hardman, now Warrant Officer Hardman, is one of my constituents, having lived in my congressional district practically all his life, until 23 years ago, when he went into the military service, at the beginning of the Spanish-American War. He went into the Spanish-American War as a private and worked his way up until he became a major in the late war with Germany.

I know his antecedents and personally know him to be a gentleman of the very highest character and integrity.

Mr. KEARNS. We will be glad to hear any statement you desire to make, Maj. Hardman.

STATEMENT OF HERBERT WARREN HARDMAN, WARRANT OFFICER UNITED STATES ARMY.

Mr. KEARNS. When were you commissioned major, in the last war?

Mr. HARDMAN. I was promoted to major from captain on August 9, 1918.

Mr. KEARNS. You had never been a commissioned officer until the late war?

Mr. HARDMAN. No, sir; I was commissioned in the Reserve Corps, but I was an enlisted man in the Regular Establishment, and when the war broke out I was called into service on the 25th day of April as a captain in the Reserve Corps.

Mr. KEARNS. Were you on the retired list?

Mr. HARDMAN. No, sir; I was on the active list.

Mr. KEARNS. You had been on active duty in the Regular Army by reason of your enlistment 23 years ago?

Mr. HARDMAN. Yes, sir.

Mr. KEARNS. You may proceed with your statement.

Mr. HARDMAN. On July 7, 1920, I took the examination for a commission in the Regular service, under the provisions of section 24 of the act approved June 24, 1920. I passed all the examinations except the physical examination. On September 2, 1920, I received an official notification from The Adjutant General of the Army that I had been found physically not qualified for a permanent commission, but that communication did not state for what cause I was physically disabled. Other officers with whom I was examined on July 7 and who failed physically were notified at the time of the examination of their failure to pass.

On September 19 orders were promulgated for a second examination, under the provisions of section 24 of the act approved June 4, 1920. This authority stated, among other things, that "all those who had been found physically disqualified on account of defects which could be removed by October 25 were eligible for their examination."

Not knowing the defect I had been disqualified for, and having no personal knowledge of any disqualifying defect, I was unable to take this examination, as I did not, nor did my superior officers under whom I was serving at that time, believe I was eligible to do so.

I was discharged on September 30, 1920, from my commission as major and reenlisted October 20, 1920, and on that date made formal application to the War Department requesting to know what was the status of my request for appointment as warrant officer. On November 10 I received telegraphic instructions that it would be necessary for me to undergo an operation for hernia before I could be appointed as a warrant officer. On that same date, when I was examined by a surgeon of the Army to ascertain if I had hernia—I had never had one, so far as I knew—his certificate was negative.

On that same date I wrote a letter to The Adjutant General of the Army suggesting that if I had been found physically disqualified for a permanent commission on account of hernia that an error had been made, and I cited a copy of the surgeon's certificate to prove my statement.

No answer was received by me to this letter until January 26, 1921 and then only after a second letter, under date of January 3, 1921 had been forwarded, requesting that the letter be answered.

This letter stated that the reason for my physical disqualification was by reason of a right inguinal hernia. This was the first time I had been officially informed as to the physical defect for which I was rejected.

Mr. KEARNS. That was after the date which former Secretary Baker mentions in his letter?

Mr. HARDMAN. No, sir.

Mr. KEARNS. Secretary Baker had fixed some date in October.

Mr. HARDMAN. Yes, sir.

Mr. KEARNS. You were not notified until the following January?

Mr. HARDMAN. On January 26 I was officially notified as to the defect for which I was disqualified.

Mr. KEARNS. Mr. Baker complains in his letter that you had slept on your rights.

Mr. HARDMAN. Yes.

Mr. KEARNS. But you had not been advised?

Mr. HARDMAN. Here was my position: So far as I know, I had nothing the matter with me, and I was not notified by the War Department of my disqualifying defect until January, 1921. I had no idea what had been found that would disqualify me. Hernia was the last thing I would have thought of. How was I to know I had a defect which could be remedied in October when I was not notified until January?

Mr. DRANE. You reenlisted in October and you were notified of your physical disqualification in January?

Mr. HARDMAN. Yes, sir.

Mr. KEARNS. How do you account for the board finding that you had a hernia?

Mr. HARDMAN. I believe it happened like this: They examined men in large numbers. They examined 12 at a time. When the examinations were made three doctors came along. One took the head, the eyes, the ears, the nose, the throat, and the thorax; another took the chest, the abdomen, and the private parts; and another took the joints. They all came along, one right behind the other; and there was a man behind them who made a note of their findings, and that man had some paper on which he would jot down what the doctor said. Two of the men with whom I had my physical examination had hernia, and you could not miss them. Those men were waived aside, and the doctors said, "I will not waste time examining you now." He said, "You are physically disqualified, but," he said, "in order to make your record complete I will come back to you when we are through with the other men." So I got one of those men's hernia and he got my commission. That is the way I figure it out. I know it was not intentional. I am sure of that, because the doctor did not know me and I did not know him. I had never seen him before and he had not seen me before.

I was informed by The Adjutant General that my letter of November 10 had been received too late for favorable consideration, although, as I understood it, the boards were still acting on examination papers of candidates for permanent commissions.

Under date of February 7, 1921, I again forwarded all papers in the case, requesting reconsideration, inclosing the certificates of four medical officers to the effect that I had no hernia.

These papers were not answered until a personal letter was written by Gen. Wood requesting to know what action had been taken on that, and the papers eventually reached me in Washington on April 19, 1921, stating that no action could be taken in my case, due to the fact that all the agencies for examining candidates for commissions under section 24 of the act of June 4, 1920, were disbanded, and that there was no further legal action open to the War Department in my case.

After being examined by two boards of Army surgeons in Chicago, I came to Washington, D. C., and applied to the Surgeon General for a physical reexamination, with a view to ascertaining positively and definitely as to whether or not I suffered from hernia.

Mr. DRANE. Upon your reexamination the board said in substance, as I understand it, that an error had been made in your case and that you had no hernia?

Mr. HARDMAN. Yes, sir.

Mr. DRANE. Did you ask The Adjutant General's Office for a copy of that report?

Mr. HARDMAN. I did.

Mr. DRANE. Who was The Adjutant General to whom you applied?

Mr. HARDMAN. It was Gen. James T. Kerr.

Mr. DRANE. What was his reply?

Mr. HARDMAN. First, he asked me what I wanted it for, and I told him. He told me it was not proper information for me to get, and I could not have it.

Mr. KEARNS. What did you tell him you wanted it for?

Mr. HARDMAN. I told him I wanted it in order to show there was an error, and to find if the War Department intended standing pat after this board had made its report.

Then he asked me for what purpose I wanted the report of the examination, and I told him I wanted it for two purposes. I said I wanted it first in order to get my Army record straightened out, so that it would not appear in my Army record that I was physically disabled, if I was not; and, second, I intended to ask that the War Department introduce a bill to have me given a commission. But he told me I could not do it.

Mr. KEARNS. You had been examined for a commission as captain in the Regular Army under the provisions of the reorganization bill?

Mr. HARDMAN. Yes, sir.

Mr. DRANE. Did Gen. Kerr indicate to you what authority could get this information you wanted?

Mr. HARDMAN. Yes, sir.

Mr. DRANE. What did he say about that?

Mr. HARDMAN. He told me the information would only be given to a court, upon a proper order, or to the Congress of the United States, or any committee of either House thereof.

Mr. KEARNS. Where is Gen. Kerr at the present time?

Mr. HARDMAN. He is located at the War Department here in Washington.

Mr. KEARNS. He is an Assistant Adjutant General?

Mr. HARDMAN. Yes, sir.

Mr. DRANE. Did Gen. Wood write a letter in connection with your case?

Mr. HARDMAN. Yes, sir.

Mr. DRANE. Will you read that letter?

Mr. HARDMAN. I will say this letter of Gen. Wood's was written on March 18, 1921, after a letter I had forwarded, through Gen. Wood to the War Department relative to my case had not been answered and that letter was dated February 7, 1921; Gen. Wood's letter says:

WAR DEPARTMENT,
HEADQUARTERS SIXTH CORPS AREA,
Fort Sheridan, Ill., March 18, 1921.

From: The Commanding General, Sixth Corps Area.

To: The Adjutant General of the Army, Washington, D. C.

Subject: Reconsideration, case of Warrant Officer H. W. Hardman.

1. As major, Quartermaster Corps, temporary, the above-named warrant officer applied for commission in the Regular Army, and it appears was not appointed as the result of error in report on his physical examination. His application for reconsideration with report of physical examination was forwarded from these headquarters under date of February 14, 1921. Copy of previous correspondence attached hereto.

2. It is believed that this case is particularly deserving of consideration by virtue of the long service of Warrant Officer Hardman and the unusual character of his war record, involving service of very great responsibility and efficiency in an administrative and organizing capacity.

3. In his personality, general education, and his wide and thorough knowledge of the service, this officer is considered well qualified and highly deserving of appointment as a commissioned officer in the Army. The denial of appointment having been based, apparently, upon an error as to his physical condition and through no fault of his own, it is believed that the case is one deserving most worthily of reconsideration.

LEONARD WOOD,
Major General, United States Army.

That was returned, under the first indorsement of The Adjutant General's Office, under date of March 26, 1921, as follows:

1. The records of this office show that the letter of February 7, 1921, from Warrant Officer Herbert Warren Hardman transmitted to this office by the fourth indorsement from the commanding general Sixth Corps Area was considered and replied to by fifth indorsement, dated February 17, 1921. Through an inadvertence which is regretted, these papers, after the fifth indorsement was signed, were placed on file and not mailed out. Upon the receipt of the letter of March 18, 1921, from the commanding general Sixth Corps Area the papers referred to were found on file.

2. Nothing can be added to the previous indorsement, dated February 17, 1921, as it is the policy of this office to adhere to the findings of the examining boards which examined candidates in 1920 for appointment in the Regular Army and to the approval by the Surgeon General of the reports made by the medical examiners.

By order of the Secretary of War.

T. H. LOWE, *Adjutant General.*

Mr. DRANE. Is there a letter in the files from Gen. Rogers?

Mr. HARDMAN. Yes, sir.

Mr. DRANE. The Quartermaster General?

Mr. HARDMAN. Yes, sir.

Mr. DRANE. That bears on this case?

Mr. HARDMAN. Yes, sir.

Mr. DRANE. What did he say?

Mr. HARDMAN. In a memorandum for the Secretary of War, dated April 22, 1921, Gen. Rogers says:

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL OF THE ARMY,
Washington, April 22, 1921.

Memorandum for the Secretary of War.

Subject: Warrant Officer H. W. Hardman.

1. Warrant Officer H. W. Hardman, now attached to the Quartermaster Corps, informs me that you have consented to examine the documents upon which he is basing his efforts to secure an appointment in the Army, either through administrative action or special legislation. His case was not presented to me for action at the time the former temporary officers were being recommended for commission due to the fact, as I understand, that he was found physically disqualified.

2. It now appears from the attached papers, and from Warrant Officer Hardman's statement, that his physical disqualification has been found to be an error. He has a most excellent reputation for efficiency and should you desire to indorse his efforts

to obtain an appointment in the Army, for duty in the Quartermaster Corps, I should be very glad to have him serve as a commissioned officer in the Quartermaster Corps.

H. L. ROGERS,
Quartermaster General.

On the second indorsement Gen. Wood returned this letter with the following statement:

OFFICE OF COMMANDING GENERAL,
SIXTH CORPS AREA,
Fort Sheridan, Ill., March 30, 1921.

To the ADJUTANT GENERAL OF THE ARMY,
Washington, D. C.:

1. Respectfully returned.
2. From the report of the medical board at this post, it is perfectly evident that a grave injustice has been done Warrant Officer Herbert Warren Hardman. The board reports that he has no trace whatever of inguinal hernia, which is alleged to have been the cause of his rejection. Disability of this kind is so easily ascertained that it is evident a mistake has been made in this case.
3. Every man is entitled to have an injustice corrected if it is humanly possible to do so. This man, well qualified for promotion, has been denied it through what is clearly a mistake. I feel confident that it is the policy of the department to correct a mistake rather than to stand upon an error which has resulted in grave injustice to a worthy soldier.
4. I recommend that this case be reopened and that Warrant Officer Herbert Warren Hardman receive the consideration which his service warrants.

LEONARD WOOD,
Major General, United States Army, Commanding.

That sums up the entire case in as few words as it can be put in. Gen. Wood ordered me before a board of surgeons at Fort Sheridan for examination to determine whether I had hernia or not, and he wrote that indorsement after he had ordered this board of surgeons to examine me, and he took a personal interest in the matter, and he went into it as thoroughly as possible. That sums up the whole case.

Mr. KEARNS. When were you recommissioned as a warrant officer?

Mr. HARDMAN. On the 28th of December.

Mr. KEARNS. Of what year?

Mr. HARDMAN. 1920.

Mr. KEARNS. That was after these medical examiners had found that you were suffering with hernia.

Mr. HARDMAN. That was after they had reported I had hernia.

Mr. KEARNS. I would like to know how you got into the Army the second time as a warrant officer if you had hernia?

Mr. HARDMAN. I was given a thorough physical examination and they found nothing the matter with me.

Mr. DRANE. Would you be ineligible for service as a warrant officer if you had hernia?

Mr. HARDMAN. Yes, sir.

Mr. KEARNS. You would be ineligible to serve in the Regular Establishment in any capacity, would you not?

Mr. HARDMAN. Yes, sir.

Mr. KEARNS. And since these examinations were made you have been commissioned as a warrant officer?

Mr. HARDMAN. Yes, sir.

Mr. KEARNS. Were you reexamined by another medical board?

Mr. HARDMAN. Yes, sir. I was examined by a board constituted for the purpose of determining my physical ability to be a warrant officer, after I had been examined for a commission in the Regular Service. I was examined by another board on September 29. The

other was on September 28. I was examined by another board of three members for the purpose of determining whether there was anything the matter with me before I was discharged as an emergency officer. That was on September 29, 1920.

The examination as a result of which they claimed I had hernia was on July 8, 1920. On September 28, 1920, I was examined to determine by physical fitness to be a warrant officer, and on September 29, 1920, I was examined to see whether there was anything the matter with me before I was discharged. I reenlisted on the 20th of October, and I was found to be all right. On November 10 I got this notice saying that I would have to be operated on for hernia before being made a warrant officer.

MR. DRANE. That is, if you are made a captain, you are suffering from hernia, but if you are made a warrant officer you are not suffering from hernia?

Mr. HARDMAN. That is the way it appeared to me.

Mr. KEARNS. You have been examined by three different boards?

Mr. HARDMAN. Yes, sir; before I came to Washington.

Mr. KEARNS. And one of those reported that you had hernia?

Mr. HARDMAN. Yes, sir.

Mr. KEARNS. Did that same board ever repudiate their findings?

Mr. HARDMAN. No; but when I came to Washington I was ordered by the Surgeon General of the Army to go to Walter Reed Hospital to be examined by another board to determine whether or not I did have hernia. I went to the Surgeon General's office and showed him the certificates of four of his own officers, and I asked him to allow me to be reexamined, so that my record would be straightened out. Here is the memorandum which the Surgeon General issued:

APRIL 13, 1920.

Memorandum for the commanding officer Walter Reed General Hospital, Takoma Park, D. C.:

1. It is requested that Col. Keller make an examination of Warrant Officer H. W. Hardman, United States Army, with reference to the existence of inguinal hernia and that complete physical examination of this officer be made by some officer on duty in your hospital, report to be submitted to this office.

2. Attached herewith are papers which belong to Warrant Officer Hardman which explain the present status of his case. These papers can be returned to him upon the completion of his examination.

For the Surgeon General.

S. J. MORRIS.
Lieutenant Colonel, Medical Corps.

That was on the 13th of April. On the 14th I reported at Walter Reed General Hospital and was examined by Col. Keller and by seven other officers. One of them was Maj. Gaul, Medical Corps, the man who made an error about my having hernia the first time. There was also another medical officer there who was on the board that examined me on July 8, 1920. Those seven officers, including the ones who examined me over again, found no hernia. I asked for the result of that physical examination and it was refused me. I made an official application for it and it was refused me. This is what Gen. Kerr said:

[First indorsement.]

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
April 20, 1921.

To Warrant Officer Herbert W. Hardman.
Returned.

Request contained in last sentence, second paragraph, is disapproved, this information not being such as can properly be furnished, information of this nature being furnished only upon proper call from a court or from a department of the Government having need therefor, or by Congress or a committee thereof.

By order of Secretary of War.

J. T. KERR, *Adjutant General.*

That is unusual, Mr. Kearns. I know of no one in the service who can not go to The Adjutant General at any time, officially, and get his physical record. I know officers who have done it, who wanted the information for their own uses; but it was refused me.

I saw the Secretary of War and he assured me that a thorough, impartial investigation of the case would be made, and he assured Mr. Drane the same thing, but after they had gone into it they claimed they could do nothing because section 24 of the act of June 4, 1920, the reorganization act, had been fulfilled and they could do nothing more about it.

I appealed to former Seeretary Baker, and I would like to read you his letter in reply to mine, his letter being dated March 18, 1921. He wrote me as follows:

BAKER, HOSTETLER & SIDLO,
COUNSELLORS AT LAW,
UNITED NATIONAL BANK BUILDING,
Cleveland, March 18, 1921.

Mr. HERBERT W. HARDMAN,
Apartment No. 1, 1473 Lawrence Avenue, Chicago, Ill.

MY DEAR MR. HARDMAN: I return herewith the copies inclosed in your letter of March 16.

It would seem to me that your rejection for physical disability took place in August and you were notified of it August 19, 1920. That letter does not state the nature of the disability, it is true, but you did not apply for reexamination in the October test, and so the time went by within which it would have been possible to discover and correct the error, which seems to have been committed in your case, shown by the subsequent examination by medical officers.

The problem presented by the War Department was to select as many officers as possible for permanent appointments, commissions to date as of July 1, 1920, and to get all of these appointments made before the 1st of December, so that Congress could confirm that and the subsequent steps outlined by the reorganization act, providing for the filling of vacancies by promotion, and selection from civil life carried forward, thus making a complete reorganization of the Army.

I fixed October as the last possible date for further examination and the correction of errors, and we did get a number of additional officers and correct a good many errors. Unhappily, however, we did not catch them all, and it would seem clear that your case is one which we did not catch in time to correct it.

There are still more vacancies, as I understand it, in the rank of second lieutenant, but the higher places have now been filled by promotion and it is now too late to correct even manifest errors. There are one or two other cases very much like yours, in which the commission was refused for physical disability, where plain error was made either by the physicians or in keeping of records. I am sorry that there were any, and yet I congratulate the department on the fact that there were so few in such a complicated and large matter.

As I am no longer in the War Department, there is of course nothing I can do about your case, but I would suggest that you send these copies to The Adjutant General with the request that if the department, either through additional legislation or any administration process, finds it possible hereafter to correct these errors your case be included.

Cordially yours,

NEWTON D. BAKER.

He admits that there was an error in the case. He knew of my case personally. Mr. Weeks admits there was an error, and I have his statement in a letter which he wrote to Senator Fletcher, dated May 3, 1921.

After a personal interview with the Secretary of War, in which I was informed that my case would be thoroughly investigated and that substantial justice would be done if it were found that an error had been made in my physical examination, I was informed that the War Department could do nothing, as there was no legal authority for appointing me, under the provisions of section 24 of the act of June 4, 1920.

I then made application to the War Department, under date of April 22, 1921, requesting that the War Department introduce a bill in Congress to appoint me a captain in the Quartermaster Corps, that being the grade that men of my age, experience, and length of service had been given under the examinations held in July, 1920.

Under date of May 4 the request was returned to me disapproved, as it was stated that it was not the practice of the War Department to initiate any action having for its purpose the introduction of special bills in Congress for the benefit of individuals. However, no objection was made to my having a bill introduced through my own efforts.

Accompanying this application to the War Department for the introduction of legislation in my behalf was the memorandum from Maj. Gen. H. L. Rogers, the Quartermaster General, which I have already read to you.

I now appeal to Congress for the passage of a bill to make me a captain, as that is the only means left me to obtain the commission for which I was examined and to which I believe I was clearly entitled had it not been for the error made in my physical examination by the original board.

Mr. KEARNS. We will take your case under advisement and give it careful consideration as soon as possible.

(Thereupon the subcommittee adjourned.)



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